THE HON'BLE SRI JUSTICE K.C. BHANU

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WRIT PETITION NO. 17019 OF 2004

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Dated: 22-09-2005

Between:

Dasari Rambabu.

……**Petitioner**

Vs.

The Commissioner of Police,

Hyderabad and others.

…….Respondents

O R D E R:

This writ petition is filed for declaring the action of respondents in not passing orders on the representation of the petitioner, dated 26.08.2004 as illegal and for a consequential direction to the respondents to pass appropriate orders by reopening Crime No.698 of 2003 registered under Section 379 I.P.C., dated 04.06.2003 to produce the crime property before the competent criminal court.

It is the case of the petitioner that as the petitioner lost his Hundai Accent Car bearing No. AP 9 AK 6579 (Black colour Model:2001) he made a complaint before Panjagutta Police Station in Crime No.698 of 2003 and the same was transferred to C.C.S.Nampally, Hyderabad. Though the car was traced out, at the influence of some finance people, the police did not hand over the car to the petitioner. When the petitioner pursued the matter, he came to know that without informing the petitioner, Crime No.698 of 2003 filed by the petitioner before the police was closed. As the police people are extending their help to the finance people, the vehicle was kept in the illegal custody of finance people. In spite of a representation placed before the higher officials, no action was taken by them. Hence, this writ petition is filed.

The respondents filed a detailed counter affidavit by stating that on a submission made by the petitioner stating that he has settled the dispute with the financier and requested the police to drop further action, Crime No.698 of 2003 was closed on 23.02.2004 and on the same day, a notice was served on the petitioner under acknowledgment. It is also stated that as the first owner failed to pay instalments to Ashok Finance, the said Ashok Finance seized the vehicle on 23.01.2002 by issuing a seizure letter. Hence, the question of theft of the vehicle does not arise.

The petitioner filed reply affidavit stating that he never gave consent to the respondents for settling the dispute. It is also stated that without the consent of the petitioner, the finance people took away the car of the petitioner from the police station.

On a petition filed by the petitioner before Panjagutta Police seeking to drop further action, a notice dated 28.02.2004 was issued by Panjagutta Police dated 28.02.2004, duly informing the petitioner that his complaint under Section 379 I.P.C. has been reported to the XXI Judicial Magistrate, Hyderabad as a mistake of fact of law and if he wants to oppose the said fact, he can appear before the concerned Magistrate within one week from the date of receipt of the notice. The learned counsel for the petitioner submits that no such notice has been served on him. The said fact cannot be decided by this court. Hence, the prayer in the writ petition cannot be granted.

The writ petition is, therefore, dismissed. All the remedies available to the petitioner are kept open. No order as to costs.

K.C.BHANU J.,

Dt.22.09.2005

tjs